

HOUSE SUBSTITUTE  
FOR  
HOUSE COMMITTEE SUBSTITUTE  
FOR  
SENATE SUBSTITUTE  
FOR  
SENATE BILL NO. 1248

AN ACT

2 To repeal sections 143.225, 143.431, 143.451,  
3 143.811, 144.190, 313.820, and 313.822, RSMo,  
4 and to enact in lieu thereof eleven new  
5 sections relating to certain funds for public  
6 elementary and secondary education, with an  
7 emergency clause.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
9 AS FOLLOWS:

10 Section A. Sections 143.225, 143.431, 143.451, 143.811,  
11 144.190, 313.820, and 313.822, RSMo, are repealed and eleven new  
12 sections enacted in lieu thereof, to be known as sections 32.068,  
13 32.069, 136.320, 143.225, 143.431, 143.435, 143.451, 143.811,  
14 144.190, 313.820, and 313.822, to read as follows:

15 32.068. 1. The state treasurer shall calculate an annual  
16 rate of interest pursuant to this section and provide the  
17 calculated rate of interest to the director of revenue as  
18 determined by subsection 2 of this section.

19 2. Each calendar quarter the state treasurer shall  
20 calculate the annual rate of interest. The rate of interest

1 shall be equal to the previous twelve-month annualized average  
2 rate of return on all funds invested by the state treasurer,  
3 rounded to the nearest one-tenth of one percent. The state  
4 treasurer shall provide such calculated rate to the director of  
5 revenue not later than thirty days prior to the end of each  
6 calendar quarter. The director of revenue shall apply the  
7 calculated rate of interest to all applicable situations during  
8 the next calendar quarter after the release of the calculated  
9 rate of interest.

10 3. Beginning January 1, 2003, the director of revenue shall  
11 apply the calculated rate of interest as determined by this  
12 section to all applicable situations.

13 32.069. 1. Notwithstanding any other provision of law,  
14 interest shall be allowed and paid on any refund or overpayment  
15 at the rate determined by section 32.068 only if the overpayment  
16 is not refunded within one hundred twenty days from the latest of  
17 the following dates:

18 (1) The last day prescribed for filing a tax return or  
19 refund claim, without regard to any extension of time granted;

20 (2) The date the return, payment, or claim is filed; or

21 (3) The date the taxpayer files for a credit or refund and  
22 provides accurate and complete documentation to support such  
23 claim.

24 2. The commissioner of administration shall, on an annual  
25 basis, estimate the amount of any additional state revenue

1 received pursuant to this section and shall transfer an  
2 additional amount to the schools of the future fund created in  
3 section 313.820, RSMo.

4 136.320. 1. Notwithstanding the provisions of any other  
5 law to the contrary, with respect to taxes administered by the  
6 department of revenue, an amnesty from the assessment or payment  
7 of all penalties, additions to tax, and interest shall apply with  
8 respect to unpaid taxes reported and paid in full from August 1,  
9 2002, to September 30, 2002, regardless of whether previously  
10 assessed, except for penalties, additions to tax, and interest  
11 paid before August 1, 2002. The amnesty shall apply only to  
12 state tax liabilities due but unpaid on or before December 31,  
13 2001, and shall not extend to any taxpayer who at the time of  
14 payment:

15 (1) Is a party to any criminal investigations or to any  
16 civil or criminal litigation that is pending in any court of the  
17 United States or this state for nonpayment, delinquency, or fraud  
18 in relation to any state tax imposed by the state of Missouri;

19 (2) Is a party to an appeal with the administrative hearing  
20 commission; or

21 (3) Is a party to a protest with the department of revenue.

22 2. Upon written application by the taxpayer, on forms  
23 prescribed by the director of revenue, and upon compliance with  
24 the provisions of this section, the department of revenue shall  
25 not seek to collect any penalty, addition to tax, or interest

1 which may be applicable. The department of revenue shall not  
2 seek civil or criminal prosecution for any taxpayer for the  
3 taxable period for which the amnesty has been granted.

4 3. Amnesty shall be granted only to those taxpayers who  
5 have applied for amnesty within the period stated in subsection 1  
6 of this section, who have filed a tax return for each taxable  
7 period for which amnesty is requested, who have paid the entire  
8 balance due within sixty days of approval by the department of  
9 revenue, and who agree to comply with state tax laws for the next  
10 three years from the date of the agreement. No taxpayer shall be  
11 entitled to a waiver of any penalty, addition to tax, or interest  
12 pursuant to this section unless full payment of the tax due is  
13 made in accordance with rules and regulations established by the  
14 director of revenue.

15 4. If a taxpayer elects to participate in the amnesty  
16 program established pursuant to this section as evidenced by full  
17 payment of the tax due as established by the director of revenue,  
18 that election shall constitute an express and absolute  
19 relinquishment of all administrative and judicial rights of  
20 appeal. No tax payment received pursuant to this section shall  
21 be eligible for refund or credit.

22 5. Nothing in this section shall be interpreted to disallow  
23 the department of revenue to adjust a taxpayer's tax return as a  
24 result of any state or federal audit.

25 6. All tax payments received as a result of the amnesty

1 program established pursuant to this section shall be deposited  
2 in the schools of the future fund created pursuant to section  
3 313.820, RSMo, other than revenues earmarked by the Missouri  
4 Constitution.

5 7. The department may promulgate such rules or regulations  
6 or issue administrative guidelines as are necessary to administer  
7 the provisions of this section. No rule or portion of a rule  
8 promulgated pursuant to the authority of this section shall  
9 become effective unless it has been promulgated pursuant to  
10 chapter 536, RSMo.

11 143.225. 1. The director of revenue, by regulation, may  
12 require an employer to timely remit the unpaid amount required to  
13 be deducted and withheld by section 143.191 at the end of any  
14 quarter-monthly period, only if the employer was required to  
15 deduct and withhold six thousand dollars or more in each of at  
16 least two months during the prior twelve months.

17 2. The director may increase the monthly requirement to  
18 more than six thousand dollars or otherwise narrow the  
19 application of the quarter-monthly remittance system authorized  
20 by this section. The director may not require the remittance of  
21 withheld taxes more often than monthly unless authorized by this  
22 section.

23 3. A remittance shall be timely if mailed as provided in  
24 section 143.851 within three banking days after the end of the  
25 quarter-monthly period or if received by the director or

1 deposited in a depository designated by the director within four  
2 banking days after the end of the quarter-monthly period.

3 4. [The unpaid amount shall be after a reduction for the  
4 compensation provided by section 143.261.] The unpaid amount at  
5 the end of a quarter-monthly period shall not include unpaid  
6 amounts for any prior quarter-monthly period.

7 5. For purposes of this section, "quarter-monthly period"  
8 means:

9 (1) The first seven days of a calendar month;

10 (2) The eighth to fifteenth day of a calendar month;

11 (3) The sixteenth to twenty-second day of a calendar month;

12 and

13 (4) The portion following the twenty-second day of a  
14 calendar month.

15 6. (1) In the case of an underpayment of any amount  
16 required to be paid pursuant to this section, an employer shall  
17 be liable for a penalty in lieu of all other penalties, interest  
18 or additions to tax imposed by this chapter for violating this  
19 section. The penalty shall be five percent of the amount of the  
20 underpayment determined under subdivision (2) of this subsection.

21 (2) The amount of the underpayment shall be the excess of

22 (a) Ninety percent of the unpaid amount at the end of a  
23 quarter-monthly period, over

24 (b) The amount, if any, of the timely remittance for the  
25 quarter-monthly period.

1           7. (1) The penalty with respect to any quarter-monthly  
2 period shall not be imposed if the employer's timely remittance  
3 for the quarter-monthly period equals or exceeds one-fourth of  
4 the average monthly withholding tax liability of the employer for  
5 the preceding calendar year. The month of highest liability and  
6 the month of lowest liability shall be excluded in computing the  
7 average. This subdivision shall apply only to an employer who  
8 had a withholding tax liability for at least six months of the  
9 previous calendar year.

10           (2) The penalty shall not be imposed if the employer  
11 establishes that the failure to make a timely remittance of at  
12 least ninety percent was due to reasonable cause, and not due to  
13 willful neglect.

14           (3) The penalty shall not be imposed against any employer  
15 for the first two months the employer is obligated to make  
16 quarter-monthly remittance of withholding taxes.

17           8. Tax amounts remitted under this section shall be treated  
18 as payments on the employer's monthly return required by  
19 subsection 2 of section 143.221. Tax amounts remitted under this  
20 section shall be deemed to have been paid on the last day  
21 prescribed for filing the return. The preceding sentence shall  
22 apply in computing [compensation under section 143.261,]  
23 interest, penalties and additions to tax and for purposes of all  
24 sections of chapter 143, except this section.

25           143.431. 1. The Missouri taxable income of a corporation

1 taxable under sections 143.011 to 143.996 shall be so much of its  
2 federal taxable income for the taxable year, with the  
3 modifications specified in subsections 2 and 3 of this section,  
4 as [is derived from sources within] apportioned to Missouri as  
5 provided in section 143.451. The tax of a corporation shall be  
6 computed on its Missouri taxable income at the rates provided in  
7 section 143.071.

8 2. There shall be added to or subtracted from federal  
9 taxable income, the modifications to adjusted gross income  
10 provided in section 143.121 and the applicable modifications to  
11 itemized deductions provided in section 143.141. There shall be  
12 subtracted the federal income tax deduction provided in section  
13 143.171. There shall be subtracted, to the extent included in  
14 [federal] Missouri taxable income, corporate dividends [from  
15 sources within Missouri]. There shall be added to federal  
16 taxable income any amount defined in section 143.435. There  
17 shall be added, to the extent included in federal taxable  
18 income, any deduction for net operating loss allowed by Section  
19 172 of the Internal Revenue Code of 1986, as amended, except for  
20 any deduction for net operating loss a corporation carries  
21 forward for a period not to exceed ten years. The commissioner  
22 of administration shall, on an annual basis, estimate the amount  
23 of additional state revenue resulting from the disallowance of  
24 non-Missouri source income and net operating loss deductions  
25 pursuant to this section and section 143.451, and from the



1 disallowance of a timely filing discount for remitters of income  
2 tax withholding payments pursuant to the repeal of section  
3 143.261, and shall transfer an equivalent amount to the schools  
4 of the future fund created in section 313.820, RSMo.

5         3. (1) If an affiliated group of corporations files a  
6 consolidated income tax return for the taxable year for federal  
7 income tax purposes and fifty percent or more of its income is  
8 derived from sources within this state as determined in  
9 accordance with section 143.451, then it may elect to file a  
10 Missouri consolidated income tax return. The federal  
11 consolidated taxable income of the electing affiliated group for  
12 the taxable year shall be its federal taxable income.

13         (2) So long as a federal consolidated income tax return is  
14 filed, an election made by an affiliated group of corporations to  
15 file a Missouri consolidated income tax return may be withdrawn  
16 or revoked only upon substantial change in the law or regulations  
17 adversely changing tax liability under this chapter; or, with  
18 permission of the director of revenue upon the showing of good  
19 cause for such action. After such a withdrawal or revocation  
20 with respect to an affiliated group, it may not file a Missouri  
21 consolidated income tax return for five years thereafter, except  
22 with the approval of the director of revenue, and subject to such  
23 terms and conditions as he may prescribe.

24         (3) No corporation which is part of an affiliated group of  
25 corporations filing a Missouri consolidated income tax return

1 shall be required to file a separate Missouri corporate income  
2 tax return for the taxable year.

3 (4) For each taxable year an affiliated group of  
4 corporations filing a federal consolidated income tax return does  
5 not file a Missouri consolidated income tax return, for purposes  
6 of computing the Missouri income tax, the federal taxable income  
7 of each member of the affiliated group shall be determined as if  
8 a separate federal income tax return had been filed by each such  
9 member.

10 (5) The director of revenue may prescribe such regulations  
11 not inconsistent with the provisions of this chapter as he may  
12 deem necessary in order that the tax liability of any affiliated  
13 group of corporations making a Missouri consolidated income tax  
14 return, and of each corporation in the group, before, during, and  
15 after the period of affiliation, may be returned, determined,  
16 computed, assessed, collected, and adjusted, in such manner as  
17 clearly to reflect the Missouri taxable income [derived from  
18 sources within this state] and in order to prevent avoidance of  
19 such tax liability.

20 143.435. 1. As used in this section, the following terms  
21 mean:

22 (1) "Affiliated group", a group as defined in Section 1504  
23 of the Internal Revenue Code of 1986, as amended;

24 (2) "Intangible expenses and costs" includes:

25 (a) Expenses, losses, and costs for, related to, or in

1 connection directly or indirectly with the direct or indirect  
2 acquisition, use, maintenance or management, ownership, sale,  
3 exchange, or any other disposition of intangible property to the  
4 extent such amounts are allowed as deductions or costs in  
5 determining taxable income before operating loss deductions and  
6 special deductions for the taxable year under the Internal  
7 Revenue Code;

8 (b) Losses related to and incurred in connection directly  
9 or indirectly with factoring transactions or discounting  
10 transactions;

11 (c) Royalty, patent, technical, and copyright fees;

12 (d) Licensing fees; and

13 (e) Other similar expenses and costs;

14 (3) "Intangible property", patents, patent applications,  
15 trade names, trademarks, service marks, copyrights, and similar  
16 types of intangible assets;

17 (4) "Interest expenses and costs", amounts directly or  
18 indirectly allowed as deductions under Section 163 of the  
19 Internal Revenue Code of 1986, as amended, for purposes of  
20 determining taxable income under the Internal Revenue Code to the  
21 extent such expenses and costs are directly or indirectly for,  
22 relate to, or in connection with the direct or indirect  
23 acquisition, maintenance, management, ownership, sale, exchange,  
24 or disposition of intangible property;

25 (5) "Related entity" includes:

1       (a) A stockholder who is an individual, or a member of the  
2       stockholder's family enumerated in Section 318 of the Internal  
3       Revenue Code of 1986, as amended, if the stockholder and the  
4       members of the stockholder's family own directly, indirectly,  
5       beneficially, or constructively, in the aggregate, at least fifty  
6       percent of the value of the taxpayer's outstanding stock;

7       (b) A stockholder, or a stockholder's partnership, limited  
8       liability company, estate, trust, or corporation, if the  
9       stockholder and the stockholder's partnerships, limited liability  
10      companies, estates, trusts, and corporations own directly,  
11      indirectly, beneficially, or constructively, in the aggregate, at  
12      least fifty percent of the value of the taxpayer's outstanding  
13      stock; or

14      (c) A corporation, or a party related to the corporation in  
15      a manner that would require an attribution of stock from the  
16      corporation under the attribution rules of Section 318 of the  
17      Internal Revenue Code of 1986, as amended, if the taxpayer owns  
18      directly, indirectly, beneficially, or constructively, at least  
19      fifty percent of the value of the corporation's outstanding  
20      stock. The attribution rules of Section 318 of the Internal  
21      Revenue Code of 1986, as amended, shall apply for purposes of  
22      determining whether the ownership requirements of this  
23      subdivision have been met.

24      2. For purposes of computing its Missouri taxable income  
25      pursuant to section 143.431, a corporation shall add to its

1 federal taxable income any amount deducted in the calculation of  
2 its federal taxable income for interest expenses and costs and  
3 intangible expenses and costs directly or indirectly paid,  
4 accrued, or incurred to or in connection directly or indirectly  
5 with one or more direct or indirect transactions with one or more  
6 related members for the taxable year.

7 3. The adjustments required in subsection 2 of this section  
8 shall not apply to such portion of interest expenses and costs  
9 and intangible expenses and costs that the corporation can  
10 establish by the preponderance of the evidence meets both of the  
11 following:

12 (1) The related member during the same income year directly  
13 or indirectly paid, accrued, or incurred such portion to a person  
14 who is not a related member; and

15 (2) The transaction giving rise to the interest expenses  
16 and costs or the intangible expenses and costs between the  
17 corporation and the related member did not have as a principal  
18 purpose the avoidance of any portion of the tax due pursuant to  
19 this chapter.

20 4. The director of the department of revenue shall  
21 promulgate rules and regulations necessary to administer the  
22 provisions of this section. No rule or portion of a rule  
23 promulgated pursuant to the authority of this section shall  
24 become effective unless it has been promulgated pursuant to the  
25 provisions of chapter 536, RSMo.

1           143.451. 1. Missouri taxable income of a corporation shall  
2 include all income [derived from sources within this state] as  
3 apportioned herein.

4           2. A corporation described in subdivision (1) of subsection  
5 1 of section 143.441 shall include in its Missouri taxable income  
6 all income [from sources within this state], including that from  
7 the transaction of business in this state and that from the  
8 transaction of business partly done in this state and partly done  
9 in another state or states. However:

10           (1) Where income results from a transaction partially in  
11 this state and partially in another state or states, and income  
12 and deductions of the portion in the state cannot be segregated,  
13 then such portions of income and deductions shall be allocated in  
14 this state and the other state or states as will distribute to  
15 this state a portion based upon the portion of the transaction in  
16 this state and the portion in such other state or states.

17           (2) The taxpayer may elect to [compute the portion of]  
18 apportion income [from all sources in this state] to Missouri in  
19 the following manner:

20           (a) [The] All federal taxable income [from all sources] for  
21 the taxable year with the modifications specified in subsections  
22 2 and 3 of section 143.431 shall be determined as provided,  
23 excluding therefrom the figures for the operation of any bridge  
24 connecting this state with another state.

25           (b) The amount of sales which are transactions wholly in

1       this state shall be added to one-half of the amount of sales  
2       which are transactions partly within this state and partly  
3       without this state, and the amount thus obtained shall be divided  
4       by the total sales or in cases where sales do not express the  
5       volume of business, the amount of business transacted wholly in  
6       this state shall be added to one-half of the amount of business  
7       transacted partly in this state and partly outside this state and  
8       the amount thus obtained shall be divided by the total amount of  
9       business transacted, and [the net] all federal taxable income for  
10      the taxable year with the modifications specified in subsections  
11      2 and 3 of section 143.431 shall be multiplied by the fraction  
12      thus obtained, to determine the proportion of income to be used  
13      to arrive at the amount of Missouri taxable income. The  
14      investment or reinvestment of its own funds, or sale of any such  
15      investment or reinvestment, shall not be considered as sales or  
16      other business transacted for the determination of said fraction.

17           (3) For the purposes of this section, a transaction  
18      involving the sale of tangible property is:

19           (a) "Wholly in this state" if both the seller's shipping  
20      point and the purchaser's destination point are in this state;

21           (b) "Partly within this state and partly without this  
22      state" if the seller's shipping point is in this state and the  
23      purchaser's destination point is outside this state, or the  
24      seller's shipping point is outside this state and the purchaser's  
25      destination point is in this state;

1           (c) Not "wholly in this state" or not "partly within this  
2 state and partly without this state" only if both the seller's  
3 shipping point and the purchaser's destination point are outside  
4 this state;

5           (d) For purposes of this subdivision the purchaser's  
6 destination point shall be determined without regard to the FOB  
7 point or other conditions of the sale, and the seller's shipping  
8 point is determined without regard to the location of the  
9 seller's principle office or place of business.

10          (4) For purposes of this subsection, the following words  
11 shall, unless the context otherwise requires, have the following  
12 meaning:

13          (a) "Administration services" include, but are not limited  
14 to, clerical, fund or shareholder accounting, participant record  
15 keeping, transfer agency, bookkeeping, data processing,  
16 custodial, internal auditing, legal and tax services performed  
17 for an investment company;

18          (b) "Affiliate", the meaning as set forth in 15 U.S.C.  
19 Section 80a-2(a)(3)(C), as may be amended from time to time;

20          (c) "Distribution services" include, but are not limited  
21 to, the services of advertising, servicing, marketing,  
22 underwriting or selling shares of an investment company, but, in  
23 the case of advertising, servicing or marketing shares, only  
24 where such service is performed by a person who is, or in the  
25 case of a closed end company, was, either engaged in the services



1 of underwriting or selling investment company shares or  
2 affiliated with a person that is engaged in the service of  
3 underwriting or selling investment company shares. In the case  
4 of an open end company, such service of underwriting or selling  
5 shares must be performed pursuant to a contract entered into  
6 pursuant to 15 U.S.C. Section 80a-15(b), as from time to time  
7 amended;

8 (d) "Investment company", any person registered under the  
9 federal Investment Company Act of 1940, as amended from time to  
10 time, (the act) or a company which would be required to register  
11 as an investment company under the act except that such person is  
12 exempt to such registration pursuant to Section 80a-3(c)(1) of  
13 the act;

14 (e) "Investment funds service corporation" includes any  
15 corporation or S corporation doing business in the state which  
16 derives more than fifty percent of its gross income in the  
17 ordinary course of business from the provision directly or  
18 indirectly of management, distribution or administration services  
19 to or on behalf of an investment company or from trustees,  
20 sponsors and participants of employee benefit plans which have  
21 accounts in an investment company. An investment funds service  
22 corporation shall include any corporation or S corporation  
23 providing management services as an investment advisory firm  
24 registered under Section 203 of the Investment Advisors Act of  
25 1940, as amended from time to time, regardless of the percentage

1 of gross revenues consisting of fees from management services  
2 provided to or on behalf of an investment company;

3 (f) "Management services" include but are not limited to,  
4 the rendering of investment advice directly or indirectly to an  
5 investment company making determinations as to when sales and  
6 purchases of securities are to be made on behalf of the  
7 investment company, or the selling or purchasing of securities  
8 constituting assets of an investment company, and related  
9 activities, but only where such activity or activities are  
10 performed:

11 a. Pursuant to a contract with the investment company  
12 entered into pursuant to 15 U.S.C. Section 80a-15(a), as from  
13 time to time amended;

14 b. For a person that has entered into such contract with  
15 the investment company; or

16 c. For a person that is affiliated with a person that has  
17 entered into such contract with an investment company;

18 (g) "Qualifying sales", gross income derived from the  
19 provision directly or indirectly of management, distribution or  
20 administration services to or on behalf of an investment company  
21 or from trustees, sponsors and participants of employee benefit  
22 plans which have accounts in an investment company. For purposes  
23 of this section, gross income is defined as that amount of income  
24 earned from qualifying sources without deduction of expenses  
25 related to the generation of such income;

1           (h) "Residence", presumptively the fund shareholder's  
2           mailing address on the records of the investment company. If,  
3           however, the investment company or the investment funds service  
4           corporation has actual knowledge that the fund shareholder's  
5           primary residence or principal place of business is different  
6           than the fund shareholder's mailing address such presumption  
7           shall not control. To the extent an investment funds service  
8           corporation does not have access to the records of the investment  
9           company, the investment funds service corporation may employ  
10          reasonable methods to determine the investment company fund  
11          shareholder's residence.

12          (5) Notwithstanding other provisions of law to the  
13          contrary, qualifying sales of an investment funds service  
14          corporation, or S corporation, shall be considered wholly in this  
15          state only to the extent that the fund shareholders of the  
16          investment companies, to which the investment funds service  
17          corporation, or S corporation, provide services, are resided  
18          in this state. Wholly in this state qualifying sales of an  
19          investment funds service corporation, or S corporation, shall be  
20          determined as follows:

21          (a) By multiplying the investment funds service  
22          corporation's total dollar amount of qualifying sales from  
23          services provided to each investment company by a fraction, the  
24          numerator of which shall be the average of the number of shares  
25          owned by the investment company's fund shareholders resided in

1 this state at the beginning of and at the end of the investment  
2 company's taxable year that ends with or within the investment  
3 funds service corporation's taxable year, and the denominator of  
4 which shall be the average of the number of shares owned by the  
5 investment company's fund shareholders everywhere at the  
6 beginning of and at the end of the investment company's taxable  
7 year that ends with or within the investment funds service  
8 corporation's taxable year;

9 (b) A separate computation shall be made to determine the  
10 wholly in this state qualifying sales from each investment  
11 company. The qualifying sales for each investment company shall  
12 be multiplied by the respective percentage of each fund, as  
13 calculated pursuant to paragraph (a) of this subdivision. The  
14 product of this equation shall result in the wholly in this state  
15 qualifying sales. The qualifying sales for each investment  
16 company which are not wholly in this state will be considered  
17 wholly without this state;

18 (c) To the extent an investment funds service corporation  
19 has sales which are not qualifying sales, those nonqualified  
20 sales shall be apportioned to this state based on the methodology  
21 utilized by the investment funds service corporation without  
22 regard to this subdivision.

23 3. Any corporation described in subdivision (1) of  
24 subsection 1 of section 143.441 organized in this state or  
25 granted a permit to operate in this state for the transportation

1 or care of passengers shall report its gross earnings within the  
2 state on intrastate business and shall also report its gross  
3 earnings on all interstate business done in this state which  
4 report shall be subject to inquiry for the purpose of determining  
5 the amount of income to be included in Missouri taxable income.  
6 The previous sentence shall not apply to a railroad.

7 4. A corporation described in subdivision (2) of subsection  
8 1 of section 143.441 shall include in its Missouri taxable income  
9 all federal taxable income [arising from all sources in this]  
10 state and all income from each transportation service wholly  
11 within this state, from each service where the only lines of such  
12 corporation used are those in this state, and such proportion of  
13 revenue from each service where the facilities of such  
14 corporation in this state and in another state or states are  
15 used, for the taxable year with the modifications specified in  
16 subsections 2 and 3 of section 143.431, as the mileage used over  
17 the lines of such corporation in the state shall bear to the  
18 total mileage used over the lines of such corporation. The  
19 taxpayer may elect to [compute the portion of] apportion income  
20 [from all sources within this state] in the following manner:

21 (1) The income [from all sources] apportioned to Missouri  
22 shall be determined as provided;

23 (2) The amount of investment of such corporation on  
24 December thirty-first of each year in this state in fixed  
25 transportation facilities, real estate and improvements, plus the

1 value on December thirty-first of each year of any fixed  
2 transportation facilities, real estate and improvements in this  
3 state leased from any other railroad shall be divided by the sum  
4 of the total amount of investment of such corporation on December  
5 thirty-first of each year in fixed transportation facilities,  
6 real estate and improvements, plus the value on December  
7 thirty-first of each year, of any fixed transportation  
8 facilities, real estate and improvements leased from any other  
9 railroad. Where any fixed transportation facilities, real estate  
10 or improvements are leased by more than one railroad, such  
11 portion of the value shall be used by each railroad as the rental  
12 paid by each shall bear to the rental paid by all lessees. The  
13 income shall be multiplied by the fraction thus obtained to  
14 determine the proportion to be used to arrive at the amount of  
15 Missouri taxable income.

16 5. A corporation described in subdivision (3) of subsection  
17 1 of section 143.441 shall include in its Missouri taxable income  
18 one-half of the net income from the operation of a bridge between  
19 this and another state. If any such bridge is owned or operated  
20 by a railroad corporation or corporations, or by a corporation  
21 owning a railroad corporation using such bridge, then the figures  
22 for operation of such bridge may be included in the return of  
23 such railroad or railroads; or if such bridge is owned or  
24 operated by any other corporation which may now or hereafter be  
25 required to file an income tax return, one-half of the income or

1 loss to such corporation from such bridge may be included in such  
2 return by adding or subtracting same to or from another net  
3 income or loss shown by the return.

4 6. A corporation described in subdivision (4) of subsection  
5 1 of section 143.441 shall include in its Missouri taxable income  
6 all federal taxable income [arising from all sources within this  
7 state]. Income shall include revenue from each telephonic or  
8 telegraphic service rendered wholly within this state; from each  
9 service rendered for which the only facilities of such  
10 corporation used are those in this state; and from each service  
11 rendered over the facilities of such corporation in this state  
12 and in other state or states, such proportion of such revenue for  
13 the taxable year with the modifications specified in subsections  
14 2 and 3 of section 143.431, as the mileage involved in this state  
15 shall bear to the total mileage involved over the lines of said  
16 company in all states. The taxpayer may elect to [compute the  
17 portion of] apportion income [from all sources within this state]  
18 in the following manner:

19 (1) The income [from all sources] apportioned to Missouri  
20 shall be determined as provided;

21 (2) The amount of investment of such corporation on  
22 December thirty-first of each year in this state in telephonic or  
23 telegraphic facilities, real estate and improvements thereon,  
24 shall be divided by the amount of the total investment of such  
25 corporation on December thirty-first of each year in telephonic

1 or telegraphic facilities, real estate and improvements. The  
2 income of the taxpayer shall be multiplied by fraction thus  
3 obtained to determine the proportion to be used to arrive at the  
4 amount of Missouri taxable income.

5 7. From the income determined in subsections 2, 3, 4, 5 and  
6 6 of this section to be from all sources within this state shall  
7 be deducted such of the deductions for expenses in determining  
8 Missouri taxable income as were incurred in this state to produce  
9 such income and all losses actually sustained in this state in  
10 the business of the corporation.

11 8. [If a corporation derives only part of its income from  
12 sources within] If a corporation apportions to Missouri less than  
13 one hundred percent of its federal taxable income for the taxable  
14 year with modifications specified in subsections 2 and 3 of  
15 section 143.431, its Missouri taxable income shall only reflect  
16 the effect of the following listed deductions to the extent  
17 applicable to Missouri. The deductions are: (a) its deduction  
18 for federal income taxes pursuant to section 143.171, and (b) the  
19 effect on Missouri taxable income of the deduction for net  
20 operating loss allowed by Section 172 of the Internal Revenue  
21 Code. The extent applicable to Missouri shall be determined by  
22 multiplying the amount that would otherwise affect Missouri  
23 taxable income by the ratio for the year of the Missouri taxable  
24 income of the corporation for the year divided by the Missouri  
25 taxable income for the year as though the corporation had



1 [derived all of its income from sources within] one hundred  
2 percent of its income apportioned to Missouri. For the purpose  
3 of the preceding sentence, Missouri taxable income shall not  
4 reflect the listed deductions.

5 9. Any investment funds service corporation organized as a  
6 corporation or S corporation which has any shareholders  
7 resided in this state shall be subject to Missouri income tax  
8 as provided in this chapter.

9 143.811. 1. Under regulations prescribed by the director  
10 of revenue, interest shall be allowed and paid at the rate  
11 determined by section 32.065, RSMo, on any overpayment in respect  
12 of the tax imposed by sections 143.011 to 143.996; except that,  
13 where the overpayment resulted from the filing of an amendment of  
14 the tax by the taxpayer after the last day prescribed for the  
15 filing of the return, interest shall be allowed and paid at the  
16 rate of six percent per annum. With respect to the part of an  
17 overpayment attributable to a deposit made pursuant to subsection  
18 2 of section 143.631, interest shall be paid thereon at the rate  
19 in section 32.065, RSMo, from the date of the deposit to the date  
20 of refund. No interest shall be allowed or paid if the amount  
21 thereof is less than one dollar.

22 2. For purposes of this section:

23 (1) Any return filed before the last day prescribed for the  
24 filing thereof shall be considered as filed on such last day  
25 determined without regard to any extension of time granted the

1 taxpayer;

2 (2) Any tax paid by the taxpayer before the last day  
3 prescribed for its payment, any income tax withheld from the  
4 taxpayer during any calendar year, and any amount paid by the  
5 taxpayer as estimated income tax for a taxable year shall be  
6 deemed to have been paid by him on the fifteenth day of the  
7 fourth month following the close of his taxable year to which  
8 such amount constitutes a credit or payment.

9 3. For purposes of this section with respect to any  
10 withholding tax:

11 (1) If a return for any period ending with or within a  
12 calendar year is filed before April fifteenth of the succeeding  
13 calendar year, such return shall be considered filed April  
14 fifteenth of such succeeding calendar year; and

15 (2) If a tax with respect to remuneration paid during any  
16 period ending with or within a calendar year is paid before April  
17 fifteenth of the succeeding calendar year, such tax shall be  
18 considered paid on April fifteenth of such succeeding calendar  
19 year.

20 4. If any overpayment of tax imposed by sections 143.011 to  
21 143.996 is refunded within four months after the last date  
22 prescribed (or permitted by extension of time) for filing the  
23 return of such tax or within four months after the return was  
24 filed, whichever is later, no interest shall be allowed under  
25 this section on overpayment.

1           5. Any overpayment resulting from a carryback, including a  
2 net operating loss and a corporate capital loss, shall be deemed  
3 not to have been made prior to the close of the taxable year in  
4 which the loss arises.

5           6. Any overpayment resulting from a carryback of a tax  
6 credit, including but not limited to the tax credits provided in  
7 sections 253.557 and 348.432, RSMo, shall be deemed not to have  
8 been made prior to the close of the taxable year in which the tax  
9 credit was authorized. The commissioner of administration shall,  
10 on an annual basis, estimate the amount of any additional state  
11 revenue received pursuant to the provisions of this subsection  
12 and shall transfer an equivalent amount to the schools of the  
13 future fund created in section 313.820, RSMo.

14           144.190. 1. If a tax has been incorrectly computed by  
15 reason of a clerical error or mistake on the part of the director  
16 of revenue, such fact shall be set forth in the records of the  
17 director of revenue, and the amount of the overpayment shall be  
18 credited on any taxes then due from the person legally obligated  
19 to remit the tax pursuant to sections 144.010 to 144.525, and the  
20 balance shall be refunded to the person legally obligated to  
21 remit the tax, such person's administrators or executors, as  
22 provided for in section 144.200.

23           2. If any [tax,] penalty or interest has been paid more  
24 than once, or has been erroneously or illegally collected, or has  
25 been erroneously or illegally computed, such sum shall be

1 credited on any taxes then due from the person legally obligated  
2 to remit the tax pursuant to sections 144.010 to 144.510, and the  
3 balance, with interest as determined by section 32.065, RSMo,  
4 shall be refunded to the person legally obligated to remit the  
5 tax, but no such credit or refund shall be allowed unless  
6 duplicate copies of a claim for refund are filed within three  
7 years from date of overpayment.

8 3. Except as provided in subsection 6 or 7 of this section,  
9 if any tax was paid more than once, was incorrectly collected, or  
10 was incorrectly computed, such sum shall be credited on any taxes  
11 then due from the person legally obligated to remit the tax  
12 pursuant to sections 144.010 to 144.510, or refunded, with  
13 interest as determined by section 32.065, RSMo, to the person  
14 legally obligated to remit the tax, only if duplicate copies of a  
15 claim for refund are filed within three years from date of  
16 overpayment and:

17 (1) Where the claim for refund is over one thousand  
18 dollars, the person legally obligated to remit the tax  
19 demonstrates to the satisfaction of the director or revenue that  
20 all incorrectly collected or incorrectly computed amounts were or  
21 will be refunded or credited to every purchaser that originally  
22 paid the tax;

23 (2) Refunds under one thousand dollars may not exceed one  
24 thousand dollars in the aggregate over any five year time frame;  
25 or

1       (3) In lieu of subdivisions (1) and (2) of this subsection  
2       and regardless of the amount of refund claimed, the person  
3       legally obligated to remit the tax submits to the director  
4       amended sales tax returns showing the correct amount of gross  
5       receipts for each reporting period originally filed and proves to  
6       the director's satisfaction that the tax originally reported and  
7       remitted to the director was paid by such person claiming the  
8       refund or credit and was not collected from purchasers.

9  
10       The commissioner of administration shall, on an annual basis,  
11       estimate the amount of additional state revenue resulting from  
12       this provision and shall transfer an equivalent amount to the  
13       schools of the future fund created in section 313.820, RSMo.

14       [3.] 4. Every claim for refund must be in writing and  
15       signed by the applicant, and must state the specific grounds upon  
16       which the claim is founded. Any refund or any portion thereof  
17       which is erroneously made, and any credit or any portion thereof  
18       which is erroneously allowed, may be recovered in any action  
19       brought by the director of revenue against the person legally  
20       obligated to remit the tax. In the event that a tax has been  
21       illegally imposed against a person legally obligated to remit the  
22       tax, the director of revenue shall authorize the cancellation of  
23       the tax upon the director's record.

24       [4.] 5. Notwithstanding the provisions of this section, the  
25       director of revenue shall authorize direct-pay agreements to

1 purchasers which have annual purchases in excess of seven hundred  
2 fifty thousand dollars pursuant to rules and regulations adopted  
3 by the director of revenue. For the purposes of such direct-pay  
4 agreements, the taxes authorized pursuant to chapters 66, 67, 92  
5 and 94, RSMo, shall be remitted based upon the location of the  
6 place of business of the purchaser.

7 6. If any tax was paid more than once, was incorrectly  
8 collected, or was incorrectly computed, such sum shall be  
9 credited on any taxes then due from the person legally obligated  
10 to remit the tax pursuant to sections 144.010 to 144.510 against  
11 any deficiency or tax due discovered through an audit of the  
12 person by the department of revenue through adjustment during the  
13 same tax filing period for which the audit applied.

14 313.820. 1. An excursion boat licensee shall pay to the  
15 commission an admission fee of [two] three dollars for each  
16 person embarking on an excursion gambling boat with a ticket of  
17 admission. One dollar of such fee shall be deposited to the  
18 credit of the gaming commission fund as authorized pursuant to  
19 section 313.835[,]; notwithstanding any other provision of law to  
20 the contrary, one dollar of such admission fee shall be deposited  
21 in the schools of the future fund created pursuant to subsection  
22 3 of this section; and one dollar of such fee shall not be  
23 considered state funds and shall be paid to the home dock city or  
24 county. Subject to appropriation, one cent of such fee deposited  
25 to the credit of the gaming commission fund may be deposited to

1 the credit of the compulsive gamblers fund created pursuant to  
2 the provisions of section 313.842. Nothing in this section shall  
3 preclude any licensee from charging any amount deemed necessary  
4 for a ticket of admission to any person embarking on an excursion  
5 gambling boat. If tickets are issued which are good for more  
6 than one excursion, the admission fee shall be paid to the  
7 commission for each person using the ticket on each excursion  
8 that the ticket is used. If free passes or complimentary  
9 admission tickets are issued, the excursion boat licensee shall  
10 pay to the commission the same fee upon these passes or  
11 complimentary tickets as if they were sold at the regular and  
12 usual admission rate; however, the excursion boat licensee may  
13 issue fee-free passes to actual and necessary officials and  
14 employees of the licensee or other persons actually working on  
15 the excursion gambling boat. The issuance of fee-free passes is  
16 subject to the rules of the commission, and a list of all persons  
17 to whom the fee-free passes are issued shall be filed with the  
18 commission.

19 2. All licensees are subject to all income taxes, sales  
20 taxes, earnings taxes, use taxes, property taxes or any other tax  
21 or fee now or hereafter lawfully levied by any political  
22 subdivision; however, no other license tax, permit tax,  
23 occupation tax, excursion fee, or taxes or fees shall be imposed,  
24 levied or assessed exclusively upon licensees by a political  
25 subdivision. All state taxes not connected directly to gambling

1 games shall be collected by the department of revenue.

2 Notwithstanding the provisions of section 32.057, RSMo, to the  
3 contrary, the department of revenue may furnish and the  
4 commission may receive tax information to determine if applicants  
5 or licensees are complying with the tax laws of this state;  
6 however, any tax information acquired by the commission shall not  
7 become public record and shall be used exclusively for commission  
8 business.

9 3. The "Schools of the Future Fund" is hereby created in  
10 the state treasury. Moneys deposited in this fund shall be  
11 considered state funds pursuant to article IV, section 15 of the  
12 Missouri Constitution. All interest received on the schools of  
13 the future fund shall be credited to the schools of the future  
14 fund. Appropriation of the moneys deposited into the schools of  
15 the future fund shall be used solely for the purpose of fully  
16 funding state aid to public schools pursuant to section 163.031,  
17 RSMo.

18 313.822. 1. A tax is imposed on the adjusted gross  
19 receipts received from gambling games authorized pursuant to  
20 sections 313.800 to 313.850 [at the rate of twenty percent] as  
21 follows:

22 (1) On the first twenty-five million of adjusted gross  
23 receipts received from gambling games conducted by licensees and  
24 authorized pursuant to sections 313.800 to 313.850, each licensee  
25 shall pay fourteen percent;



1       (2) On adjusted gross receipts of more than twenty-five  
2       million but less than fifty million received from gambling games  
3       conducted by licensees and authorized pursuant to sections  
4       313.800 to 313.850, each licensee shall pay eighteen percent;

5       (3) On adjusted gross receipts of more than fifty million  
6       but less than seventy-five million received from gambling games  
7       conducted by licensees and authorized pursuant to sections  
8       313.800 to 313.850, each licensee shall pay twenty-three percent;  
9       and

10       (4) On adjusted gross receipts of more than seventy-five  
11       million received from gambling games conducted by licensees and  
12       authorized pursuant to sections 313.800 to 313.850, each licensee  
13       shall pay twenty-eight percent.

14  
15       The taxes imposed by this section shall be returned to the  
16       commission in accordance with the commission's rules and  
17       regulations who shall transfer such taxes to the director of  
18       revenue. All checks and drafts remitted for payment of these  
19       taxes and fees shall be made payable to the director of revenue.

20       If the commission is not satisfied with the return or payment  
21       made by any licensee, it is hereby authorized and empowered to  
22       make an assessment of the amount due based upon any information  
23       within its possession or that shall come into its possession.

24       Any licensee against whom an assessment is made by the commission  
25       may petition for a reassessment. The request for reassessment

1 shall be made within twenty days from the date the assessment was  
2 mailed or delivered to the licensee, whichever is earlier.  
3 Whereupon the commission shall give notice of a hearing for  
4 reassessment and fix the date upon which the hearing shall be  
5 held. The assessment shall become final if a request for  
6 reassessment is not received by the commission within the twenty  
7 days. Except as provided in this section, on and after April 29,  
8 1993, all functions incident to the administration, collection,  
9 enforcement, and operation of the tax imposed by sections 144.010  
10 to 144.525, RSMo, shall be applicable to the taxes and fees  
11 imposed by this section.

12 [(1)] 2. Each excursion gambling boat shall designate a  
13 city or county as its home dock. The home dock city or county  
14 may enter into agreements with other cities or counties  
15 authorized pursuant to subsection 10 of section 313.812 to share  
16 revenue obtained pursuant to this section. The home dock city or  
17 county shall receive [ten] two percent of the adjusted gross  
18 receipts [tax collections, as levied pursuant to this section,]  
19 of licensees and authorized pursuant to sections 313.800 to  
20 313.850 for use in providing services necessary for the safety of  
21 the public visiting an excursion gambling boat. Such home dock  
22 city or county shall annually submit to the commission a shared  
23 revenue agreement with any other city or county. All moneys owed  
24 the home dock city or county shall be deposited and distributed  
25 to such city or county in accordance with rules and regulations

1 of the commission. All revenues provided for in this section to  
2 be transferred to the governing body of any city not within a  
3 county and any city with a population of over three hundred fifty  
4 thousand inhabitants shall not be considered state funds and  
5 shall be deposited in such city's general revenue fund to be  
6 expended as provided for in this section.

7 [(2)] 3. The remaining amount of the adjusted gross  
8 receipts tax shall be deposited in the state treasury to the  
9 credit of the "Gaming Proceeds for Education Fund" which is  
10 hereby created in the state treasury. Moneys deposited in this  
11 fund shall be considered the proceeds of excursion boat gambling  
12 and state funds pursuant to article IV, section 15 of the  
13 Missouri Constitution. All interest received on the gaming  
14 proceeds for education fund shall be credited to the gaming  
15 proceeds for education fund. Appropriation of the moneys  
16 deposited into the gaming proceeds for education fund shall be  
17 pursuant to state law.

18 [143.261. For every remittance to the  
19 director of revenue made on or before the  
20 date the remittance becomes due, the  
21 employer, other than the United States and  
22 its agencies, the state of Missouri and  
23 political subdivisions thereof, may deduct  
24 and retain the following percentages of the  
25 total amount of tax withheld and paid in each  
26 calendar year:

27 (1) Two percent of five thousand  
28 dollars or less;

29 (2) One percent of amount collected in  
30 excess of five thousand dollars and up to and  
31 including ten thousand dollars;

32 (3) One-half percent of amount  
33 collected in excess of ten thousand dollars.]

1           Section B. Because immediate action is necessary to ensure  
2           that adequate funding is available to fully fund the school  
3           foundation formation of this state, section A of this act is  
4           deemed necessary for the immediate preservation of the public  
5           health, welfare, peace and safety, and is hereby declared to be  
6           an emergency act within the meaning of the constitution, and  
7           section A of this act shall be in full force and effect upon its  
8           passage and approval.